

Message Text

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ACTION ARA-10

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E. O. 11652: N/A
TAGS: SHUM, PINT, PFOR, CI
SUBJECT: DISAPPEARED CHILEANS: CARLOS HUMBERTO CONTRERAS MALUJE

REF: SANTIAGO 0956

1. ON JANUARY 31 THE SANTIAGO APPEALS COURT, IN WHAT MAY BE A LANDMARK DECISION, DETERMINED THAT COMMUNIST CARLOS CONTRERAS WAS DETAINED ON NOVEMBER 3, 1976 BY THE DIRECTORATE OF NATIONAL INTELLIGENCE (DINA), AND ORDERED THE INTERIOR MINISTER IMMEDIATELY TO SET CONTRERAS FREE (RETEL). THE GOC REPLY HAS CREATED POTENTIAL FOR A SERIOUS CONFLICT BETWEEN THE EXECUTIVE AND JUDICIARY.

2. ACTING INTERIOR MINISTER MONTERO INFORMED THE COURT FEBRUARY 4 THAT THE ORDER COULD NOT BE COMPLIED WITH, SINCE CONTRERAS' WHEREABOUTS WERE UNKNOWN. MONTERO NOTED THAT THE MINISTRY THREE TIMES HAD TOLD THE COURT IT KNEW NOTHING OF CONTRERAS, AND THAT DINA HAD INFORMED THE MINISTRY TO THE SAME EFFECT DECEMBER WIM MONTERO SAID HE HAD TO ACCEPT WHAT OTHER OFFICIAL AGENCIES TOLD HIM IN GOOD FAITH, ESPECIALLY IF THE ORGANIZATION (E.E., DINA) FALLS "DIRECTLY UNDER THE PRESIDENT OF THE REPUBLIC" (A RARE OFFICIAL ACKNOWLEDGEMENT OF THIS FACT). MONTERO ENDED HIS REPLY
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ON THE TACTLESS NOTE THAT THE MINISTRY WOU HAPPILY COMPLY WITH THE COURT'S INSTRUCTION IF THE COURT WOULD INDICATE WHERE CONTRERAS WAS.

3. A JUDICIAL FUNCTIONARY WITH PROCEDURAL RESPONSIBILITIES NOTED TO THE APPEALS COURT FEBRUARY 3 THAT INTERIOR HAD NOT COMPLIED WITH THE ORDER TO RELEASE CONTRERAS. HE SAID THAT CONTRERAS

HEREFORE REMAINED DETAINED "ILLEGALLY AND ARBITRARILY," AND THAT THE EXECUTIVE HAD DISREGARDED AND DISOBEYED AN ORDER FROM ONE OF THE COUNTRY'S HIGHEST TRIBUNALS. HE RECOMMENDED AMONG OTHER STEPS THAT THE PRESIDENT OF THE SUPREME COURT MAKE A REPRESENTATION TO THE PRESIDENT OF THE REPUBLIC ON THE CASE. THE APPEALS COURT IN PLENARY SESSION SUBSEQUENTLY SENT THE CASE TO THE SUPREME COURT, SINCE THE FORMER'S INSTRUCTION TO THE INTERIOR MINISTRY HAD NOT BEEN COMPLIED WITH.

4. COMMENT: WE WERE TOLD THAT ACTING MINISTER MONTERO WAS ENRAGED AT THE LANGUAGE USED IN THE ABOVE DOCUMENT ON CONTRERAS. INDEED, THE LANGUAGE WAS UNUSUALLY STRONG, AND THE POSITION TAKEN BY THE APPEALS COURT RAISES MORE INSISTENTLY THE POSSIBILITY OF AN EXECUTIVE-JUDICIARY CONFLICT. WE DO NOT RECALL THE JUDICIARY CALLING THE MILITARY GOVERNMENT TO ACCOUNT IN THIS MANNER BEFORE. THE JUNTA NO DOUBT HAS IN MIND THAT ALLENDE'S DEFIANCE OF THE SUPREME COURT WAS AN IMPORTANT FACTOR IN THE SWING OF PUBLIC OPINION AGAINST HIM, AND THEREFORE WE DOUBT THAT THE PRESENT CASE WILL BE ALLOWED TO REACH THE POINT OF TOTAL CONFRONTATION. ON THE OTHER HAND, WE SEE NO EASY SOLUTION THAT WILL SATISFY ALL CONCERNED. BOYATT

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